

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 169 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

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COMMISSIONER OF INCOME-TAX

Versus

JITENDRA M MISTRY (HUF)

Appearance:

MR MANISH R BHATT for Petitioner
SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 25/07/96

ORAL JUDGEMENT

Tribunal has reffered the following
question under Section 256(1) of the Income-Tax Act, 1961
to this Court for opinion : -

"Whether, the Appellate Tribunal is right in law
and on facts in directing the assessing officer
to allow deduction under Section 35B on
Rs.2,96,797/- being interest paid on export
packing credit loan?"

The assessing officer disallowed the
claim of weighted deduction under Section 35B as the
amount was for interest paid on export packing credit
loan. The assessee preferred appeal before C.I.T. (A)
which was allowed and in further appeal, the Tribunal,
relying on the decision of Madhya Pradesh High Court in
the case of C.I.T. v. Vippy Solvex Products P. Ltd., 159
ITR 487, confirmed the order passed by CIT (A).

The controversy now is no more required to be decided by detailed judgment as in the case of C.I.T. v. Jay Industries, 196 ITR 313, this Court has held that if the expenditure was incurred in payment of interest to the bank the same would not be covered under Section 35B (1)(b) of the Act for weighted deduction. Therefore, we answer the question against the assessee and in favour of the revenue.

Answer accordingly with no order as to costs.
